

1 “Semiconductor IP vendor Rambus Inc yesterday announced it had signed a
2 patent license agreement with Fujitsu Ltd that covers Rambus’ entire portfolio and
may be worth as much as \$198m.

3 Los Altos, California-based Rambus said the agreement applies to both
4 manufacture and sale and covers systems, semiconductors and all other segments of
Fujitsu's business, past and future, on a worldwide basis.”

5 [http://www.computerwire.com/industries/research/?pid=28A537DF-D678-4F36-](http://www.computerwire.com/industries/research/?pid=28A537DF-D678-4F36-BEED-23A2D55389E0)
6 [BEED-23A2D55389E0](http://www.computerwire.com/industries/research/?pid=28A537DF-D678-4F36-BEED-23A2D55389E0)

7 568. The simultaneous exercise of an employee option and the sale of the resulting
8 stock are not protected by the automatic stock sale plan (10B) exceptions.

9 Other stock sales by employees may be protected by the 10B exceptions if there is
10 no fraud on the part of the employee. Certain Defendants were using automatic plans for stock
11 already in their possession. However, fraud in concealing the material adverse information when
12 setting up the automatic plans voids the 10 (b) exception as is the case for Mr. Tate and Mr.
13 Mooring and the other control directors and officers at Rambus. Most of the other Defendants
14 did not use 10B automatic plans at all as is the case with Laura Stark.
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17 **INSIDER TRADING ON APRIL 20, 2006**

18 569. On April 20, 2006 while Rambus was awaiting the jury’s verdict in the Federal
19 District court in San Jose, California. An entity engineered a surprise short attack on the stock
20 using an agent at the courthouse to give the signal. This short attack on the stock drove the stock
21 from \$45 per share to \$29 per share in 3 minutes. The stock recovered to about \$38 per share in
22 another two minutes. The stock closed at about \$38 per share that day. This attack wiped out
23 about \$50 million of April options and reduced the capital value of Rambus stock by \$700
24 million dollars.
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1 570. Unwittingly, the Plaintiff spoke with the agent of the April 20, 2006 attack at
2 the courthouse, as did others. The outstanding question is whether the entity behind this attack
3 was connected with Rambus or any of its agents or large investment groups?

4 571. The agent claimed to be from Millennium Investments that was a holder of the
5 convertible bond at that time. This same agent later told others at the courthouse that he was
6 from Susquehanna Capital an options market maker.¹²⁶

7 572. Rambus through email sent to John Danforth was alerted to this price
8 manipulation at the time. Inexplicably, Rambus later denied in writing that it was aware of this
9 matter giving support to the suspicion that the company or someone at the company was
10 involved in the misappropriation inside information.¹²⁷
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15 **COMPENSATION AND AUDIT COMMITTEE SCIENTER**

16 573. The Compensation Committee was aware of, or but for its reckless disregard
17 should have been aware of, the backdating options scheme and the backdating of new employee
18 hire dates. The Charter of the Compensation Committee of Rambus states that the purpose of the
19 Compensation Committee is to "recommend and approve appropriate executive compensation"
20 and to "make recommendations to the Board regarding director compensation."

21 The Committee is charged with annually reviewing and approving for the CEO and
22 executive officers of the Company, the annual salary, bonuses, equity compensation, incentive
23 bonuses and any other benefits, compensation or arrangements. Therefore, due to their intricate
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27 ¹²⁶ The agent claimed that his client was one of the biggest options players and that they never lost.

28 ¹²⁷ CFO Rishii answer the letter sent to John Danforth.

1 involvement in the formulation and issuance of such options, the Compensation Committee
2 Directors possessed the scienter.

3 574. The Audit Committee is responsible for maintaining the adequacy of internal
4 controls, and therefore, knew, or at a minimum recklessly disregarded, the impermissible option
5 backdating and new employee hire date backdating that the internal controls of the Company
6 should have detected.

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8 The Audit Committee Charter of Rambus states that the Company has an obligation to
9 insure that it produces and publicly distributes financial statements which are consistent, fairly
10 presented and in conformance with generally accepted accounting principles. It is the duty of the
11 Audit Committee to oversee the Company's accounting and financial reporting process, its
12 system of internal accounting controls and the auditing of the Company's financial statements.

13 In addition, the Audit Committee had the duty to meet periodically with management to
14 review the adequacy of the Company's internal controls. The Audit Committee either
15 intentionally or recklessly failed to detect and correct the illicit option and new hire backdating
16 schemes. Therefore, the Audit Committee Directors possessed scienter.¹²⁸
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20 **2000 Insider Trading And Spring-Loaded Options**

21 575. Mr. Tate with his "one man stock option" committee granted himself and Mr.
22 Mooring 500,000 Common Stock Equivalents (CSE) presumably on December 1, 1999 with a
23 strike price of \$2.50 per share subject to a vesting requirement for half of the grant that the price
24 of Rambus stock exceed \$200 per share for 30 consecutive days. The stock price on December 1,
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27 ¹²⁸ The membership of the Compensation and Audit Committees overlapped and both included Mr. Dunlevie, Dr.
28 Geschke and Dr. Davidow and later Dr. Farmwald. Collectively these directors had ownership control of the
company.

1 1999 closed at \$17.56. The contracts made with Mr. Tate and Mr. Mooring for those CSE's are
2 dated October 20, 1999.

3 As noted earlier, there is no public accounting record that Mr. Tate or Mr. Mooring ever
4 paid the \$2,500,000 strike price money for the CSEs that they were exercised.

5 576. These "spring-loaded", heavily in the money, grants were made after Mr. Tate
6 had determined Rambus would demand royalties from Hitachi for their SDRAM and DDR
7 JEDEC parts. Later Rambus would demand royalties from all the other major JEDEC DRAM
8 producers as part of the plan.
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10 577. In connection with the issue of springloaded options, Chancellor Chandler
11 opined as follows:

12 "Whether a board of directors may in good faith grant spring-loaded options is a
13 somewhat more difficult question than that posed by options backdating, a practice
14 that has attracted much journalistic, prosecutorial, and judicial thinking of late. At
15 their heart, all backdated options involve a fundamental, incontrovertible lie:
16 directors who approve an option dissemble as to the date on which the grant was
17 actually made. Allegations of spring-loading implicate a much more subtle
18 deception.

19 Granting spring-loaded options, without explicit authorization from shareholders,
20 clearly involves an indirect deception. A director's duty of loyalty includes the duty
21 to deal fairly and honestly with the shareholders for whom he is a fiduciary. It is
22 inconsistent with such a duty for a board of directors to ask for shareholder
23 approval of an incentive stock option plan and then later to distribute shares to
24 managers in such a way as to undermine the very objectives approved by
25 shareholders. This remains true even if the board complies with the strict letter of a
26 shareholder-approved plan as it relates to strike prices or issue dates.

27 The question before the Court is not, as plaintiffs suggest, whether spring-loading
28 constitutes a form of insider trading as it would be understood under federal
securities law. The relevant issue is whether a director acts in bad faith by
authorizing options with a market-value strike price, as he is required to do by a
shareholder-approved incentive option plan, at a time when he *knows* those shares
are actually worth more than the exercise price. A director who intentionally uses
inside knowledge not available to shareholders in order to enrich employees while

1 avoiding shareholder-imposed requirements cannot, in my opinion, be said to be
2 acting loyally and in good faith as a fiduciary.”²²

3 578. Exhibit J shows the outstanding CSE at the end of each quarter from 1998 until
4 2005. The table was drawn from the quarterly reports Rambus filed with the SEC.

5 579. Inspection of the calendar 1999- Q4 entry shows that Rambus had 5,644,000
6 CSE’s outstanding. By the end of the next quarter there were 12,504,000 CSEs outstanding.
7 Thus, 6,860,000 common stock equivalents appear to have been issued in a single quarter under
8 the 1997 Stock Plan.
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10 580. Exhibit J permits one to deduce that at least 995,000 CSE’s were sold in CY
11 2000- Q2. All of these were both granted and sold on the basis of insider information.

12 581. Exhibit J also informs us that the reports of the issuance of the 4,124,000 CSE’s
13 to Rambus employees were just the tip of the CSE iceberg. There are another 6,859,000 CSE’s
14 materially unaccounted for by Rambus in its disclosures to the SEC for CY 2000-Q1.
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16 582. By CY 2001-Q2 most of the 9,507,000 CSE’s were apparently sold. Only
17 2,250,000 CSE’s are reported as outstanding. However, we have no idea who sold them or what
18 otherwise happened to them.

19 583. Exhibit J shows that the CSE’s were used to pledge the transfer of a tremendous
20 amount of Rambus capital assets to largely unknown people and/or entities from the years 1998
21 through 2005.
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23 584. Rambus’ disclosures with respect to its grants of Common Stock equivalents
24 were fraudulent under California law because ¹²⁹Rambus disclosures of these grants were
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27 ¹²⁹ *In re Tyson Foods, Inc. Consol. S’holder Litig.*, C.A. No. 1106-N (Del. Ch. Feb. 6, 2007)

1 misleading and deceitful and did not tell the whole truth about this part of Rambus 1997 stock
2 Plan.

3 585. Plaintiff alleges that Rambus intentionally omitted to give a complete
4 accounting of these unjustified and materially adverse grants of CSE's in order to perpetuate its
5 fraud on the public to obscure the massive transfer of corporate capital to unknown persons and
6 entities as well as the corporate insiders.

7 586. Plaintiff further alleges that PWC and WSGR were among the beneficiaries of
8 these undisclosed and unaccounted for grants in violation of the California, Federal and
9 Delaware laws.

10 587. Mr. Tate and Mr. Mooring as well as PWC and WSGR also knew that public
11 would view Rambus' January assertion of SDRAM and DDR royalties as a potential worldwide
12 monopoly by Rambus on the DRAM market and that the price of the stock would be bid up as
13 the market digested its importance.

14 588. They also knew that the introduction of the Willamette processor that
15 supported only RDRAM by Intel in February 2000 would be viewed as confirming Intel's
16 endorsement of RDRAM. Rambus sued Hitachi in late January and was asserting its patents over
17 the competing SDRAM and DDR JEDEC memory products. Thus by early February 2000,
18 Rambus was perceived as having a viable claim to a patent monopoly on all synchronous
19 DRAM. This was a \$20-35 billion per year worldwide market.

2000-2001 Insider Trading On Material Non Public Information

589. During the period from 2000 to 2001 the 2000 Insider Trading Defendants sold exercised options and/or sold stock as follows: (from <http://www.wyca.com/complnts/rmbs-com.htm>)¹³⁰:

<u>Defendant</u>	<u>Time Period</u>	<u>Shares</u>	<u>Proceeds</u>
Horowitz	2/15/00-2/1/2001	380,000	\$18,133,240
Larsen	1/21/2000-2/1/2001	149,256	\$ 7,303,026
Mooring	2/16/2000-1/26/2001	420,000	\$23,967,000
Tate	2/2/2000-1/26/2001	540,000	\$31,578,795
Harmon	2/22/2000-1/24/2001	28,664	\$ 1,151,119
Kanadjian	7/25/2000-1/23/2001	74,000	\$ 4,633,020
Donnelly	2/25/2000-11/6/2000	111,264	\$ 6,753,190
Toprani	2/2/2000-2/29/2000	132,000	\$ 4,388,490
Farmwald	2/29/2000-8/28/2000	270,000	\$24,903,800
Dunlevie	7/27/2000	30,000	\$2,669,400
Total			\$125,481,080

590. The 2000 Insider trading Defendants are Horowitz, Larsen, Mooring, Tate, Harmon, Donnelly, Toprani, Farmwald and Dunlevie.

¹³⁰ It is not known whether these are all the sales.

591. Moreover, throughout the 1997-2006 period certain Defendants while in possession of materially adverse information concerning the backdated options and the JEDEC patent fraud exercised many of these stock options contributing to their ability to sell over 14 million shares of Rambus stock for gross proceeds of \$400,084,332 as follows:

<u>Defendant</u>	<u>Time Period</u>	<u>Shares</u>	<u>Proceeds</u>
Hughes	7/19/05	50,457	\$670,321
Danforth	1/21/04-5/1/06	310,000	\$10,456,689
Davidow	7/26/04-5/12/06	363,702	\$8,173,359
Dunlevie	10/1/03-5/3/06	112,000	\$6,573,676
	7/27/00	30,000	\$ 2,669,400
Farmwald	8/14/97-4/28/06	3,512,308	\$89,197,261
Horowitz	1/10/97-7/1/05	2,108,984	\$46,498,276
Mooring	8/14/97-3/6/06	3,342,461	\$106,662,668
Tate	8/14/97-9/20/05		\$61,030,631
Eulau	2003-2006	583,662	\$15,844,601
Larsen	2003-2005	479,391	\$14,348,892
	1/21/00-2/1/01	149,256	\$ 7,303,026
Schroeder	2003-2006	17,500	\$601,280
Stark	2004-2006	355,128	\$10,911,461
Patel	2003-2005	352,752	\$5,775,654
Donnelly	2003-2005	236,456	\$8,305,457
	2/25/00-11/6/00	111,264	\$ 6,753,190
Toprani	2/2/00-2/29/00	132,000	\$ 4,388,490
Total			\$400,084,332

The receipts from sales prior to the Sarbanes-Oxley are not generally available. Also, the sales of illicit options by nonreporting Rambus employees are not publically available. Thus, these estimates of the proceeds from the backdated options are low.

592. Insider trading volume by month in 2000 is shown below.

This shows the controlling officers making misappropriating material non-public information in their sales of Rambus stock during the year 2000.

<u>Month</u>	<u>Shares Sold</u>	<u>Events</u>
January	8,276	Rambus sues Hitachi late in January.
February	615,345	Rambus stock price more than triples On Perception that Intel is backing Rambus, analysts predict \$125 per share.
April-May	277,328	Price declines due \$171 million loss.
July	109,000	Sold shortly before Rambus sues Infineon.
August	427,417	Sold shortly before Micron sues Rambus. Mooring and Tate sell 200,000 shares.
November	248,268	Mr. Tate sells 200,000 shares shortly After Micron asks the FTC to investigate.

593. The simultaneous exercise of an employee option and the sale of the resulting stock are not protected by the automatic sale plan exceptions. The Defendants established their 10-B5 plans while concealing the materially adverse information about the illicit options scheme insider trading, submarine patents, and other forms of fraud being practiced.

The Defendants' Scheme Is Exposed

594. There are early signs starting in 2005 that Rambus knew that there was an increasing probability that their fraudulent concealments were likely to be discovered and that the company delayed the disclosure of the materially adverse information as long as could. These signs show Rambus preparing to cover up

1 A. Brocade Inc (another Santa Clara valley electronics company) was
2 under investigation by the SEC and the DOJ for options backdating by 2005 and
3 had the same corporate law firm as Rambus and also had the same "one-man" stock
4 option committee allegedly recommended by Mr. Sonsini of Wilson Sonsini
5 Goodrich and Rosati for Brocade. Brocade also had the same options and "new-
6 hire" backdating practices.

7 B. Brocade's former CEO Mr. Reyes has been charged with criminal
8 violations by the DOJ in connection with the backdating of employee stock options
9 grants and new hire dates. Rambus has publicly admitted that its option grants were
10 incorrectly dated and that new-hire employment dates were backdated.

11 C. With the same illicit backdating practices and the same law firm as
12 Brocade, and the fact Rambus directors had invested in Brocade, Rambus was on
13 notice of its impending exposure no later than 2005.

14 D. Mr. Tate and Mr. Horowitz terminated their automatic sales plans
15 in September 2005 and did not reinstitute them.

16 E. Mr. Danforth negotiated a severance agreement with Rambus that
17 was signed in early 2006 that essentially silenced him and forbade him from
18 helping anyone sue the company. For this he was awarded about \$1 million of
19 restricted stock. (2006 10-K).

20 After signing this "gag" contract Mr. Danforth and Mr. Hughes were
21 publicly misleading shareholders by referencing Mr. Danforth's stated goal to write
22

1 the story of Rambus in book form at the annual shareholders meeting 2006 and also
2 at other times.¹³¹

3 F. Mr. Tate gave back millions of dollars worth of stock options in
4 early January 2006 as well as the common stock equivalents that would never vest.
5 In so doing, Mr. Tate attempted to make his egregious options grants legitimate by
6 characterizing himself in the boards statement as a "service provider" instead of the
7 CEO and Inside Director.

8
9 G. Mr. Mooring terminated his employment with the company in
10 early 2006 and sold a very large amount of stock in Rambus in advance of the
11 adverse news..

12 H. Robert Eulau CFO resigned his position despite the fact he had
13 been awarded another round of spring-loaded options, exercised his vested options
14 and sold much if not all of his stock position by March 2006 in advance of the
15 adverse news.

16
17 I. Additional outside directors were appointed to the Board of
18 Directors.

19 J. Mr. Tate surrendered his position as Chairman of the Board in May
20 2006 just before the CFRA reported that Rambus was suspected of backdating
21 options.

22 K. Mr. Davidow sold stock and then quit as Chairman Emeritus in
23 May 2006 before the board commented on the options backdating.

24 L. Mr. Danforth was demoted in July 2006 after the bad news was
25 revealed.
26

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28 ¹³¹ Mr. Danforth was indirectly barred from writing the Rambus story by his employment contract.

1 595. The 1998-2006 Proxy Statements concealed Defendants' option backdating
2 scheme. Thus, the Company's shareholders remained unaware of Defendants' wrongdoing when
3 voting on proxy proposals between 1998 and 2006. In fact, it was not until the CFRA report that
4 shareholders learned that the Proxy Statements that they had relied upon for year were false and
5 misleading. Defendants have been unjustly enriched at the expense of public shareholders.

6 596. On May 16, 2006, Rambus' stock dropped as the CFRA published a report on
7 stock option backdating which listed Rambus as a company at risk for such practices. Then, on
8 May 30, 2006, Rambus announced that it had commenced an internal investigation into the
9 Company's historical stock option granting practices and related accounting issues, focusing on
10 options issued in or before 2003.

11 597. Each dollar diverted to Defendants via the option-backdating scheme has come
12 at the expense of the public shareholders. For example, if Tate's 360,000 options granted in
13 November 1998 had not been manipulated, but rather had a strike price of \$18.36 per share,
14 which was the average for November 1998, instead of the \$14.83 per share strike price, which
15 was the trading low for the month, when Tate exercised those options the Company would
16 receive \$6.6 million instead of \$5.3 million - a cost to the Company of \$1.3 million from this
17 single instance of option backdating. This theft of the company's capital reduced the book value
18 of the company.

19 598. The statement of FTC Commissioner J. Thomas Rosch February 5, 2007 (page
20 7, footnote 30, docket 9302) contains evidence that Rambus would not license under RAND
21 rates to JEDEC members. Rambus has maintained the public position that it would have issued
22 licenses under RAND.

23 599. On July 21, 2006 the FTC issued a notice of intent to release evidence that had
24 been provided in camera which was to be incorporated into to Commission opinion that was
25

subsequently released on August 2. This release shows that Rambus had concealed materially adverse evidence from its shareholders and prospective shareholders for many years.

The Commission Opinion (page 118) states:

“We stress, however, that Rambus’s extensive document destruction campaign had the potential to deny the Commission an opportunity to examine thoroughly Rambus’s conduct. In some instances, the Commission has relied on evidence that was preserved only fortuitously.⁶⁴⁷ If the record in this case had been marginal, while simultaneously containing evidence that Rambus had destroyed potentially relevant documents, we would have pursued the spoliation inquiry to its conclusion and, if appropriate, imposed a remedy...”

And in footnote 647 on the same page:

“For example, the only sources of Crisp’s JEDEC-related e-mails were a hard drive found in Crisp’s attic, *see* CX 5075 at 3-5 (deposition transcript at 296-302) (Crisp 2004 *Infineon* Dep.), and an old Rambus server that Crisp had used to transfer e-mails between his Macintosh and PC office computers. *See* Crisp, Tr. 3572-76, 3588-92; CX 5078 at 14 (trial transcript at 124). Likewise, although Rambus’s outside patent counsel, Vincent, destroyed most of his Rambus-related files, he retained certain relevant correspondence in his personal files. *See* CX 5066 (designated GCW F 3448). In addition, records that Rambus failed to produce in the normal course of discovery were retrieved from corrupted back-up files in the subsequent *Hynix* litigation, and the Commission was able to add this evidence to this proceeding’s record on appeal. “

600. The FTC prepared a detailed timeline based on both the available documentation and the concealed information recovered later. It is given at the following link:

<http://www.ftc.gov/os/adjpro/d9302/051028pubtimelined9302.pdf>

The FTC Commission timeline chart shows that new evidence was obtained from Rambus backup tapes that were presumably found in Rambus garage, from documents in the Infineon “spoliation” case in Virginia (that were admitted in 2006) and from documents withheld or missing from Rambus Privilege Log (CX5117).

Karp, Crisp, Tate, Davidow, Vincent, Larsen, Roberts, Toprani, Diepenbrock, Vincent, Barth, Mooring, Harmon, and Garrett are named in this document which summarizes shows

1 Rambus submarine patent scheme, its intention to deceive the industry until "the point of no
2 return", and their awareness of the continuing equitable estoppel issues in connection with its
3 SDRAM and DDR patents.

4 5 Tolling And The Statutes Of Limitations

6 601. In addition to fraudulently concealing the "backdating" of stock/options,
7 employment documents, their insider-trading scheme and their fraudulent SEC reports, the
8 company executives and directors also concealed their "exclusionary" antitrust conduct and their
9 "deceptive" and unfair business practices with respect to the JEDEC manufacturers from the
10 Plaintiffs. These were facts material to Rambus stock price and were required to be reported.
11 These highly material adverse omissions were concealed for 7 years from the plaintiffs and were
12 revealed in August 2, 2006. Rambus' fraudulent concealment tolls the statute of limitations until
13 the truth became known.

14 602. With respect whether to allow equitable tolling due to the issuance of spring-
15 loaded options, Chancellor Chandler in the Tyson²² case issued the following opinion (emphasis
16 added):

17 "Plaintiffs allege that Defendants knowingly spring-loaded options to key
18 executives and directors while maintaining in public disclosures that such options
19 were issued at market rates. Such partial, selective disclosure - if not itself a lie,
20 certainly exceptional parsimony with the truth - constitutes an act of "actual
21 artifice" that satisfies the requirements of the doctrine of fraudulent concealment.
22 Even were this not the case, Defendants' roles as fiduciaries would justify tolling
23 the statute of limitations through the doctrine of equitable tolling. Plaintiffs were
24 entitled to rely upon the competence and *good faith* of those protecting their
25 interests."

26 Plaintiffs in this complaint are also alleging that the CSE's and the other options issued
27 presumably on October 20, 1999 were spring-loaded and that this is a violation of the purpose of

28 ²² In Re Tyson Foods, Inc. Consolidated Shareholder Litigation, 2007 Del. Ch. Lexis 19 (Del. Ch. Feb. 6, 2007)

1 an incentive stock plan.¹³² Many other options grants were also spring-loaded and a number of
2 them are marked in Exhibit B.

3 603. Rambus had been warned by its own attorneys from 1992 onward of the
4 equitable estoppel consequences of its deceptions in connection with JEDEC membership and
5 with its business partners who were also JEDEC members.

6 604. Rambus was first charged with actual fraud in Virginia in 2000. This specific
7 charge involved the failure of Rambus to inform the JEDEC member companies of its patents or
8 patent applications on the JEDEC standard while a member of JEDEC. Rambus was found
9 guilty. However, the CAFC overturned the jury verdict because it determined that even though
10 Rambus attempted to get patents on the JEDEC standards they did not succeed while Rambus
11 was a member of JEDEC. Moreover the CAFC determined that the JEDEC rules were too vague
12 to impose a "contractual duty" to disclose. The Plaintiff followed this case closely and felt
13 correctly that Rambus would prevail ultimately on this actual fraud charge.
14

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16 However, the Plaintiff wrongly believed that Rambus had adequately informed the
17 industry of its intention to seek patents to protect its continuation rights flowing from the
18 RDRAM patents. Rambus' withdrawal letter from JEDEC had stated generally that they would
19 enforce their rights and encouraged this wrong belief. Later it was revealed that Rambus made no
20 mention of JEDEC standard memory but did assert rights over SDRAM in what has been
21 construed as an act of deception under California law.

22
23 Rambus made no effort to correct this wrong belief despite the fact that Rambus
24 executives and board members have admitted to monitoring the internet investment message
25 boards where this wrong belief were being espoused by shareholders. Plaintiffs did not know

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27 ¹³² Rambus knew the stock would rise due to the Intel scheduled and Rambus assertion of monopoly over
28 synchronous DRAM by February 2000. Rambus insiders took advantage of this information to award huge amounts
of Rambus stock and options to themselves.

1 until 2006 that Rambus misled Hynix and the industry from 1996 and had failed to assert its
2 claims to SDRAM and DDR royalties to which they would have been entitled under the Hynix
3 contract. Rambus disclosed nothing to its shareholders with regard to this intentional deception
4 of the DRAM industry. But for the publishing of the evidence of Rambus concealment by the
5 FTC Commissioners we still would not know of the intentional deception.

6 605. There is now considerable circumstantial evidence that Rambus used to internet
7 investment message boards to promote a false view of the company and its SDRAM/DDR patent
8 prospects through agents connected to the company directly or indirectly. Some message board
9 participants have been asked if they are Rambus employees. They have refused to deny that they
10 are employed by Rambus directly or indirectly. This is another form of deception directly
11 targeting the shareholders.¹³³

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13 606. California law provides a 4-year statute of limitations in cases involving
14 breaches of fiduciary duty and also the CA17200. The statute of limitations begins to run when
15 Plaintiff discovers or should have discovered all the facts essential to this complaint through the
16 exercise of "reasonable diligence".

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18 607. Section 10 (b) of the 1934 Exchange Act is not tolled. The discovery date of the
19 options backdating fraud is taken to be the CFRA announcement May 2006. The revelation of
20 the FTC opinion on August 2, 2006 is taken to be the discovery date of the Rambus deception of
21 the DRAM manufacturers.

22 608. The statute of limitations for the section 18 (a) of the 1934 exchange Act is as
23 follows:
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27 ¹³³ In fact one poster -according to a confidential source- is Mr. Hughes the CEO of Rambus who is alleged to post
28 under the name "clarissamehitable". It turns out that this alias is an old Hughes family nickname going back into the
19th century. Link : <http://www1.investorvillage.com/smbd.asp?mb=3666&pt=m>

1 “No action shall be maintained to enforce any liability created under this section
2 unless brought within one year after the discovery of the facts constituting the
3 cause of action and within three years after such cause of action accrued.”

4 609. The Counts alleged herein are timely. Defendants wrongfully concealed their
5 submarine patent scheme, manipulation of the stock option plans through strategic timing and
6 fraudulent backdating, fraudulent backdating of employee hire dates, by issuing false and
7 misleading Proxy Statements, by falsely reassuring Rambus’ public investors that Rambus’
8 option grants were being administered by a committee of independent directors, and by failing to
9 disclose that backdated options were, in fact, actually issued on dates other than those disclosed,
10 and that strategically timed option grants were issued based on the manipulation of insider
11 information that ensured that the true fair market value of the Company's stock was, in fact,
12 higher than the publicly traded price on the date of the option grant.

13 610. Plaintiff had no reason to suspect the Defendants’, PWC’s or WSGR’s
14 complicity until May 16, 2006, when CFRA issued its subscription report detailing the option
15 practices of Rambus and the Company thereafter made its own announcement that it was
16 commencing its own internal investigation into the Company's historical stock option granting
17 practices and related accounting confirming the substance of the CFRA report.

18 611. The initial acts of options fraud began in 1997 and is continuing due to the 10-
19 year exercise period of some of the options. The completions of the fraudulent acts continue
20 within the statute of limitations. Thus, options and warrants fraudulently granted in 1998 may
21 continue to be exercised until 2008 where the fruit of the fraud is complete. Moreover, spring-
22 loaded options issued in 2006 will continue to be exercised until 2016. Thus the acts of fraud
23 were not consummated prior to the statute of limitations but are continuing.
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PLAINTIFFS DAMAGE PLEADING

612. This section deals with transaction and loss causation and summarizes damages by account number.

613. Plaintiffs' detailed Rambus transactions are attached as Exhibit O and summarized here. The total losses are given below for each account as specified:

Fidelity Investments (JK) X05-XXX173	-\$ 2,296,496.78	(1999-2002)
Fidelity Investments (JK) X05-XXX172	- \$ 830,233.58	(1999-2001)
Fidelity Investments (KL) Z85-XXX131	-\$1,164,466.47	(4/1/06-3/1/07)
Fidelity Investments (JK) Z85-XXX769/801	-\$ 839,172.61	(4/1/06-12/31/06)
Fidelity Investments (DK) X94-15XX88	-\$ 12,196.40	(1/1/04-8/31/04)
	-\$ 358,920.55	(4/1/06-9/30/06)
Etrade Securities (DK) XXXX-6310	-\$ 361,099.65	(10/7/00-4/30/01)

614. Plaintiffs' actual damages under California fraud charges are taken to be the losses indicated on brokerage statements.

615. California fraud damages are calculated for all Rambus securities as the sales the purchase amounts. Calculated this way transaction costs are included but not margin costs.

616. For 10(b) damages, the Plaintiffs follow the Dura¹³⁴ standard. Rambus' stock prices in 2005 and 2006 were grossly inflated.¹³⁵ Under Dura, the plaintiffs are permitted to

¹³⁴ DURA PHARMACEUTICALS, INC., *et al.* v. BROUDO *et al.* certiorari to the united states court of appeals for the ninth circuit, No. 03-932. Argued January 12, 2005--Decided April 19, 2005

¹³⁵ In 2005, the truth of Rambus' concealed "spoliation" of records as part of their antitrust caused them to lose in Virginia federal court.

1 assert that Rambus' many misrepresentations "touch upon" the plaintiffs' economic losses in
2 that the price of Rambus stock was inflated as a consequence of its omission of materially
3 adverse disclosures and the active but materially false stock price promotion that has already
4 been documented herein especially for the years 2000 and 2001 as well as 2005 and 2006.

5 617. 10 B damages are the transaction losses from the time that the materially
6 adverse news began to leak into the market place causing Rambus securities to begin to react. In
7 April 2006, the resignations, changes in the board of directors and option grant givebacks, and
8 the heavy insider selling foreshadowed the revelation unexpected bad news of subsequent
9 months.
10

11 There are two news events in early 2005 causing the Rambus securities to react
12 negatively in the first half of the year. First, the \$300 million Convertible bond private placement
13 was announced without warning. Second, Rambus lost the 'spoliation' trial in Virginia without
14 warning on March 15, 2005.
15

16
17 618. **1999-2002 Transaction Causation:**

18 Plaintiffs' initial purchases of Rambus securities in late 1999 and early 2000 were
19 initially decided based on the fact that Intel had selected Rambus' RDRAM memory for the vast
20 PC desktop and workstation market. A review of Rambus SEC financial reports and other public
21 disclosures such as news releases was made in advance of the decision to invest. This provided a
22 reasonable basis for investment and a promise of fast earnings growth as the new PC platforms
23 were sold.
24

25
26 In 2006, Rambus was still concealing from its shareholders and the court evidence from the court of its
27 submarine patent scheme and spoliation as well as its insider trading and backdating practices. Had the truth been
28 known Rambus stock price would never have reached \$46 per share. This was revealed by the FTC release of sealed
evidence.

1 If Rambus had disclosed the material issues related to their JEDEC patent ambush
2 or the fact that they already knew that Intel was moving away from Rambus RDRAM for PC's,
3 Plaintiffs would have not invested in Rambus.¹³⁶

4 Plaintiffs relied on the truth of Rambus' assertions with respect to the superiority
5 of the RDRAM memory and later in January 2000 on the perceived strength of Rambus' JEDEC
6 Patent portfolio in making purchases of Rambus securities. Rambus' serious and long term
7 material omissions that are the direct cause of Plaintiffs purchases. Had Rambus not concealed
8 the materially adverse condition of the SDRAM and DDR patent portfolio, Plaintiffs would not
9 have invested in Rambus securities.

10
11 619. Plaintiffs' damages were caused when they were forced to sell their securities
12 at greatly reduced prices or when their securities expired worthless when actual news events
13 revealing the material omissions occurred. In other cases, the materially adverse non-public
14 information leaked onto the market or was inferred by portions of the market as a consequence
15 Rambus board of directors, management, consultants or industry actions. For example in 2006,
16 there were many insiders and consultants who knew Rambus' materially adverse information.¹³⁷
17 The insiders and consultants had significant advantages over others in the purchase and sale of
18 Rambus securities.

19
20 620. It is important to note here that the truth of Rambus deceptions is not yet fully
21 known because the company has been unable to complete its financial restatements for more than
22 a year since the initial disclosures in May 2006 and has not been candid with shareholders. In
23 fact, Rambus has resisted the lawful inspection of their records under California law.
24

25
26 ¹³⁶ The FTC evidence timeline chart is available at
<http://www.ftc.gov/os/adjpro/d9302/051028pubtimelined9302.pdf>

27 ¹³⁷ Dunlevie and Davidow were part of the venture capital community. The Rambus executives had to know to do
28 their jobs. WSGR and PWC had to know by virtue of their involvement in Rambus financial and legal affairs from
the beginning.

1 621. Plaintiffs assert that they would not have invested in Rambus securities had
2 they known of Rambus' false financial, proxy, and registration statements or its practices of
3 backdating employee options, insider trading, backdating new employee hire dates, and failing to
4 establish and maintain adequate internal control procedures.

5 Plaintiffs assert that they would not have invested in Rambus had they known of Rambus
6 "unfair business practices" and "violations of antitrust law" as described in detail by the FTC in
7 its finding published August 2, 2006 Opinion¹³⁸.

8
9 Plaintiffs would not have invested in Rambus had they known that PWC was failing to
10 perform its public accounting functions and that WSGR was helping to setup and provide legal
11 cover for Rambus' illicit stock and option grant practices while accepting stock and/or options
12 from Rambus.¹³⁹

13 Plaintiffs would not have invested if they had known that Rambus had negotiated a clause
14 in its contract with Intel that forbade Intel from publicly endorsing any other RDRAM
15 competitors and that Intel was to be paid royalties by Rambus in excess of 1.5% on RDRAM
16 sales while holding 4,000,000 Rambus common stock equivalents with a strike price of \$2.50 per
17 share.
18

19 Plaintiffs at all times attended to all the public information they could reasonably obtain
20 access to in evaluating Rambus as an investment. They even attended some of the court
21 proceedings.¹⁴⁰

22 Rambus' many concealments of the material adverse non-public information denied
23 Plaintiffs the right to make an informed investment decision based on appropriate and complete
24

25 ¹³⁸ Indeed the FTC findings have put a cap on the royalties that Rambus can recover for their JEDEC patents that is
26 much lower than the royalty rate Rambus was demanding. The FTC finding strongly supports the charge fraud in the
27 Rambus' dealings with its shareholders.

¹³⁹ WSGR is alleged to have recommended the "one-man stock option committee" to Rambus board of directors.

1 material disclosures. Rambus management successfully perpetuated this stock fraud on the
2 plaintiffs for 6 years.

3 622. **Materially Adverse Omissions:**

4 Plaintiffs had no way of knowing that Rambus was intentionally and willfully omitting to
5 state many materially adverse facts about the company and its practices as follows:

- 6 a) Intel was already moving away from using Rambus
7 RDRAM.¹⁴¹
- 8 b) Rambus' contract with Intel prevented Intel from endorsing
9 any competitive memory other than RDRAM in public
10 statements. Rambus had from the beginning set out to
11 prevent the public from gaining access to the material non-
12 public information.¹⁴²
- 13 c) Rambus was engaged in "unfair business" and "antitrust
14 violations" in connection with the submarine patent ambush
15 of the DRAM manufacturers.¹⁴³
- 16 d) Rambus financial, proxy and registration Statements and later
17 their other option grant disclosures (S3, S4) were false and
18 misleading.
- 19 e) Rambus executives and managers were engaging
20 systematically in insider trading while in possession of
21 materially adverse non-public information about the
22 company for 7 years.

26 ¹⁴¹ Plaintiffs even purchased RDRAM based PC's for evaluation in the year 2000 (an 820 and an 850 PC)

27 ¹⁴² This goes further to establishing scienter on the part of Rambus executive management and its board of directors.

28 ¹⁴³ This has led to the collapse in the value of Rambus JEDEC patent portfolio.

- 1 f) Mr. Tate and Mr. Mooring were taking common stock
2 equivalents and options grants before they vested in CY Q1-
3 2000 while in the possession of materially adverse non-
4 public information and while misappropriating company
5 information for their own benefit.¹⁴⁴
6
7 g) The convertible bond placement (in 2005) for \$300,000,000
8 was made to replace the strike price money not paid to
9 Rambus as a consequence of its options backdating
10 practices.¹⁴⁵
11
12 h) Key members of Rambus board of directors and executive
13 management were covering up the false financial reports,
14 illicit options grants, employment record backdating, and
15 backdating of options and common stock equivalent exercise
16 dates in 2005 and 2006.¹⁴⁶
17
18 i) Mr. Tate was replaced as CEO by Mr. Dunlevie, Dr.
19 Davidow and Mr. Hughes as a consequence of the
20 Internal control audit performed in 2004 by the Audit
21 Committee. The board of directors approved this change and
22 PWC did not report what it found to the public or the SEC.
23
24 j) Mr. Hughes in 2006 initiated a public campaign to support
25 And run up Rambus stock price in the first 4 ½ months of the

26 ¹⁴⁴ The record shows that 200,000 of the CSE were exercised and sold by September 30, 2000.

27 ¹⁴⁵ This bond placement was made using Rambus false financial statements.

28 ¹⁴⁶ To wit Dunlevie, Davidow, Farmwald, Tate, Mooring, Hughes, Bentley, Kennedy and Geschke.
Mr. Davidow was justifying the options grants in 2002 at the annual shareholders meeting in 2006 to plaintiff.

1 year. At the same time Rambus insiders were selling their
2 stock.

3
4 623. Plaintiffs would not have invested any money with Rambus had any of these
5 material omissions become known at the time because the management would have been
6 adjudged dishonest and the investment risky as it has proven to be.

7
8 624. 2000-2001 News event Disclosures:

- 9 a) Rambus sues Hitachi.
10 b) Rambus asserts monopoly over synchronous DRAM.
11 c) Intel launches Willamette at IDF.
12 d) Rambus announces a surprise \$171.1 million loss due to
13 stock and option grants.
14 e) Hitachi countersues Rambus.
15 f) Toshiba Licenses Rambus
16 g) Hitachi settle Rambus lawsuit
17 h) Rambus sues Infineon.
18 i) Hynix sues Rambus.
19 j) Micron sues Rambus
20 k) Intel chooses DDR over RDRAM for servers.
21 l) Intel takes RDRAM off its product roadmap.
22 m) FTC begins inquiries regarding Rambus
23 n) Rambus loses to Infineon on JEDEC fraud.
24 o) Intel pays \$200 million to buyout Rambus contract for in
25 return for royalty free license and a release.
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THE 10 (b) PLEADING STANDARD

625. In order to plead a claim for securities fraud under Section 10(b) and Rule 10b-5, Plaintiffs must plead:

- A) a misrepresentation or omission of a material fact;¹⁴⁷
- B) reliance thereon;¹⁴⁸
- C) causation;¹⁴⁹
- D) damages¹⁵⁰;
- E) fraud (a "strong inference" scienter)¹⁵¹;
- F) in connection with the purchase or sale of a security.¹⁵²

The Supreme Court Summary Prescriptions¹⁵³:

- 1) Courts must accept all factual allegations in the complaint as true.
 - a) Allegations must be considered collectively
 - b) The court's job is not to scrutinize each allegation in isolation.
- 2) Courts must consider
 - a) the complaint in its entirety
 - b) documents incorporated by reference;
 - c) matters incorporated by judicial notice
- 3) Courts in determining whether the pleaded facts give rise to a strong inference of scienter
 - a) must take into account plausible nonculpable opposing inferences.
 - b) The significance of an allegation depends on the entirety of the complaint.

¹⁴⁷ Plaintiffs have pled material misrepresentations and or omissions of fact by Rambus that were made to induce the plaintiffs to purchase and hold the stock. These include material misrepresentations of the value of SDRAM and DDR patent portfolios, false financial and Proxy and registration statements, other false SEC filings, alteration of company documents, backdating and springloading of options and stock grants while concealing spoliation and antitrust activities.

¹⁴⁸ Plaintiffs have pled reliance on Rambus false financial statements. Rambus' highly material concealment the weakness in its asserted monopoly over the DRAM market. Plaintiffs have also pled that the misleading and false statements made by Mr. Hughes, Mr. Danforth and Ms. Holt were instrumental in Plaintiffs retaining positions in Rambus stock which resulted in losses in 2006.

¹⁴⁹ Plaintiffs have adequately alleged loss causation by showing news events and the leakage of adverse news that caused drops in the Rambus' securities prices and caused losses in plaintiffs' accounts.

¹⁵⁰ Plaintiffs have shown that their damages are in excess of \$5,000,000 and have alleged sufficient specific events that caused their losses that are directly tied to Rambus concealments of the many materially adverse facts as well as many materially misleading public statements by company officers. The false and misleading statements were designed to keep the shareholders in the stock while company insiders benefited from the selling their stock.

¹⁵¹ The Supreme Court has now prescribed the scienter standard.

¹⁵² Plaintiffs have adequately alleged the purchase and sale of Rambus stock and options by providing account transactions tied to the material events.

¹⁵³ *Tellabs, Inc. v. Makor Issues & Rights, Ltd., No. 06-484 (U.S.), decided June 21, 2007*

1 c) Omissions and ambiguities may count against scienter but the court's job is
2 not to
3 "to scrutinize each allegation in isolation but to assess all the allegations
4 holistically."

5 d) Scienter must be argued for each defendant with facts that are sufficient to
6 show a culpable state of mind with regard to his/her violations.

7 The facts in the Rambus case show much more than false and misleading statements.

8 There are a range of abusive stock option practices including backdating and a pattern of
9 unscheduled option and stock grants in front of materially positive news events over a long
10 period from 1998. Moreover, there is the illegal alteration of company hiring documents.¹⁵⁴ The
11 Defendants also filed of false Form 4 disclosures for their backdated options.¹⁵⁵ In addition stock
12 and/or option grants to consultants such as PWC and WSGR were not accounted for. The
13 compensation and stock or option grants to very high-level service providers such

14 Mr. Karp (vice President) and Mr. Steinberg (Vice President) were specifically not
15 accounted for at all¹⁵⁶. Mr. Karp and Mr. Steinberg were the two most important Rambus
16 employees responsible for the Rambus' submarine patents on the JEDEC SDRAM and DDR that
17 the FTC has ruled was an antitrust offense. The omission of their compensation cannot be an
18 accident and is very suspicious.

19 Finally, the evidence sealed at the request of Rambus was published by the FTC over
20 Rambus objections after its ruling on August 2., 2006, proves that Rambus did engage in "willful
21 and intentional" deception of the DRAM manufacturers. Rambus not only deceived the industry,
22 it also deceived the plaintiffs, analysts, and public shareholders and the federal courts by not
23

24 ¹⁵⁴ Rambus has admitted to backdating employment hire dates to obtain low price options for new
25 employees

26 ¹⁵⁵ See for example the John Danforth employment grant 10/8/2001 exhibit B of the complaint.

27 ¹⁵⁶ There is no record of stock or option grants to either Mr. Karp or Mr. Steinberg in connection
28 with their development of the RAMBUS JEDEC patent portfolio despite its overwhelming
importance to Rambus and its impact on Rambus' stock price.

1 making this evidence available in the 2000, 2005 and 2006 to the federal courts hearing the
2 “spoliation” cases. The FTC evidence proves the fraudulent intentions of Rambus its board of
3 directors and its management. Thus the FTC ruling and the evidence that was published
4 supporting the findings satisfy the requirements of both the 10 B and also the California fraud
5 allegations.

6
7
8 **THE FRAUD PLEADING STANDARD**

9 626. Allegations of deceit and fraud against Plaintiff under California Civil Code
10 sections 1709 and 1572 must meet the heightened pleading standards of Federal Rule Civil
11 Procedure 9(b). Plaintiffs are required to plead facts in the complaint such as the times, dates,
12 places, benefits received, and other details of the alleged fraudulent activity. Statements of the
13 time, place and nature of the alleged fraudulent activities are sufficient whereas mere conclusory
14 allegations of fraud are insufficient. Plaintiffs believe those requirements have been met in this
15 complaint.
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20 **COUNT I**
21 **VIOLATIONS OF §10(B) AND RULE 10 B-5 OF THE 1934 SECURITIES**
22 **EXCHANGE ACT**
(Against All Defendants)

23 627. Plaintiff incorporates by reference and realleges each and every allegation set
24 forth above, as though fully set forth herein.

25 628. During the statutory period the individual Defendants, WSGR and PWC carried
26 out a plan, scheme and course of conduct that was intended to and/or did: (i)
27
28

1 deceive the investing public, including plaintiff as alleged herein; (ii) artificially
2 inflate the market price of Rambus common stock; and (iii) cause plaintiff to buy
3 Rambus stock at artificially inflated prices.

4 629. Plaintiff was unaware of the Rambus' option backdating and insider trading
5 scheme, SDRAM/DDR patent deception and other Rambus' deceptive practices.
6 Plaintiff purchased securities that were artificially inflated in value due Rambus'
7 misrepresentation of its legitimate prospects and by concealment of the materially
8 adverse information relating to their options backdating, insider trading and
9 submarine patent scheme. These concealments allowed Rambus executives and
10 board members to benefit enormously from the cyclic price swings in Rambus'
11 stock by exploiting their inside knowledge of litigation and other events material to
12 the company.
13

14 630. Defendants employed devices, schemes and artifices to defraud while in
15 possession of material, adverse non-public information and engaged in acts,
16 practices and a course of conduct that included the making, or participation in the
17 making of false and/or misleading statements of material facts and/or omitting
18 material facts necessary in order to make their statements about Rambus not
19 misleading.
20

21 631. The Defendants, as top executive officers and directors of the Company, are
22 liable as direct participants in the wrongs complained of herein. Through their
23 positions of control and authority as officers of the Company, each of the
24 Defendants was able and did control the conduct complained of herein and the
25 content of the public statements disseminated by Rambus.
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632. Defendants acted with scienter throughout the relevant period, in that they had actual knowledge of the misrepresentations and/or omissions of material facts set forth herein. Defendants were among the senior management of the Company, and were therefore directly responsible for the false and misleading statements and/or omissions disseminated to the public through press releases, news reports and filings with the SEC.

633. Each of the Defendants, PWC and WSGR participated in a scheme to defraud with the purpose and effect of defrauding Rambus and its Plaintiffs in order to enrich themselves.

634. By virtue of the foregoing, Defendants have violated § 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder and have thereby caused the Plaintiff to sustain damages as alleged herein.

COUNT II

VIOLATIONS OF §14(A) OF THE 1934 EXCHANGE ACT

(Against PWC, WSGR, and the Rambus Board of directors and John Danforth)

635. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

636. The § 14(a) Defendants are PWC, WSGR, and the Rambus Board of directors and John Danforth. PWC and WSGR knowingly participated in the preparation of the Proxy statements and their inclusions. John Danforth signed the Proxy statement on behalf of the board of directors.

637. Rule 14a-9, promulgated pursuant to § 14(a) of the Exchange Act, provides that no proxy statement shall contain "any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to

1 any material fact, or which omits to state any material fact necessary in order to
2 make the statements therein not false or misleading." 17 C.F.R. §240.14a-9.

3 638. The 1998-2006 Proxy Statements violated §14(a) and Rule 14a-9 by
4 intentionally omitting material facts, including the fact that Defendants were
5 causing Rambus to engage in an option backdating scheme, a fact that certain of the
6 defendants were aware of and participated in from 1998 to the current time.

7 639. In the exercise of reasonable care, Defendants should have known that the
8 Proxy Statements were materially false and misleading.

9 640. The misrepresentations and omissions in the Proxy Statements were material to
10 Plaintiff in voting on each Proxy Statements. The materially false Proxy Statements
11 were essential to the accomplishment of Defendants' unlawful stock option
12 backdating and insider trading scheme. Any revelations of the material truth would
13 have immediately thwarted continuation of plaintiffs' endorsement of the directors'
14 positions, the executive officers' and the Company's compensation policies and the
15 Plaintiff choice of Rambus securities as an investment. Indeed plaintiff would
16 have had the option to not invest or to liquidate the investment in Rambus.

17 641. The Plaintiff was damaged as a result of the material misrepresentations and
18 omissions in the Proxy Statements.

19 642. As a consequence, PWC, WSGR, and John Danforth are liable for these false
20 proxy statements.
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25 **COUNT III**

26 **VIOLATIONS OF §18(A) OF THE 1934 EXCHANGE**
27 **ACT**

28 (Against the § 18 Defendants)

1 643. Plaintiff incorporates by reference and realleges each and every allegation set
2 forth above, as though fully set forth herein.

3 644. The § 18 Defendants consist of the board of directors and other signatories of
4 the false and or misleading SEC reports in the statutory years.

5 645. PWC by attesting to the unqualified accuracy of Rambus financial statements
6 made itself a section 18 defendant.

7 646. Thus, Farmwald, Horowitz, Kennedy, Tate, Davidow, Dunlevie, Hughes,
8 Mooring and the other signatories of the false SEC reports are to the same extent as
9 Danforth and Eulau subject to the section 18 count for the same reasons and
10 scienter is not required.

11 647. Plaintiff read the 10-K and 10-Q reports in deciding to build and/or retain
12 positions in Rambus securities.

13 648. Plaintiff also read and discussed the public media releases of Rambus Financial
14 results and relied on this information in deciding whether to build or retain Rambus
15 securities positions.

16 649. Plaintiff has been damaged as a consequence of reliance on the false and
17 misleading Rambus SEC reports intermittently over a period of 7 years.

COUNT IV
VIOLATIONS OF §20(A) AND (E) OF THE 1934
EXCHANGE ACT

(Against Control Defendants)

650. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

651. The control Defendants, by virtue of their positions within Rambus and their specific acts, were, at the time of the wrongs alleged herein, controlling persons of Rambus within the meaning of §20(a) of the Exchange Act. They had the power to influence and exercised the power to cause Rambus to engage in the illegal conduct and practices complained of herein.

652. During the relevant statutory periods Defendants Hughes, Eulau, Mooring, Tate, Dunlevie, Farmwald, Horowitz, Kennedy, Danforth, Davidow, Geschke and Harmon were “controlling persons” of defendant Rambus, within the meaning of Section 20(a) of the Exchange Act.

653. The Defendants were “controlling persons” of Rambus because, due to the officer and/or director positions they held with Rambus and they had the influence and power over Rambus to cause or prevent, and did cause, Rambus to engage in the wrongful conduct complained of herein.

654. As set forth above in Count I, the Defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder by their acts and omissions as alleged in this Complaint. By virtue of their status as a “controlling person” of Rambus, the Defendants are liable, to the same extent as is Rambus for its violations of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, pursuant to Section 20(a) of the Exchange Act.

1 655. As set forth in Count II, Rambus violated Section 14(a) of the Exchange Act
2 by its acts and omissions. By virtue of their status as a “controlling person” of
3 Rambus, the Individual Defendants are liable, to the same extent as is Rambus for
4 its violations of Section 14(a) of the Exchange Act, pursuant to Section 20(a) of the
5 Exchange Act.

6 656. As a consequence the Control Defendants are jointly and severally liable for
7 damages to the Plaintiff under §20 (a) (e).
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COUNT V

**BREACH OF FIDUCIARY DUTY OF CANDOR AGAINST THE DEFENDANTS
UNDER CALIFORNIA LAW**

657. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

658. The fiduciaries of Rambus are the board of directors and the officers of the company.

659. As fiduciaries of the plaintiff, the Defendants owed the highest duty of good faith that includes the duty to fully disclose the existence and nature of all material facts in their possession or control with respect to Rambus' prospects as a business.

660. The Defendants have violated fiduciary duty of candor owed to Plaintiff, and have engaged promulgating false and misleading proxy statements, financial statements and press releases to Plaintiff and the public and other forms of fraud.

661. Defendants failed to exercise the candor owed to Plaintiff, and they failed to disclose materially adverse information and/or made material misrepresentations to Plaintiff regarding Rambus true prospects including its legal and financial conditions. Instead they concealed the actual condition of the company from the plaintiff and the public.

662. There can be no doubt that disclosure of the aforementioned materially adverse information would have caused a reasonable shareholder to change their vote and reconsider any Rambus investments.

663. By reason of the foregoing acts, practices and course of conduct, the Defendants have breached their fiduciary obligation of candor towards Plaintiff.

664. As a proximate result of the Defendants' conduct Plaintiff has been injured and is entitled to damages.

COUNT VI
VIOLATION OF CALIFORNIA CORPORATIONS CODE 25401

(The 2000 and 2006 Insider-Selling Defendants, PWC and WSGR)

665. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

666. The 25401 Defendants are the 2000 and 2006 Insider-Selling Defendants, PWC and WSGR.

667. PWC and WSGR accepted stock or options grants from Rambus and exercised or sold the stock derived thereby while in possession of material non-public information. Service providers under the 1997 Stock Plan they each could receive up to 1-million stock options or common stock equivalents per year.

668. Acting individually and pursuant to a scheme or conspiracy or aiding and abetting each other, the 2000 and 2006 Insider Selling Defendants had access to highly material adverse information regarding Rambus' various fraudulent practices and sold their Rambus common stock to the public market in violation of California Code 25401.

669. Each of the Insider Selling Defendants had actual knowledge of one or more of these fraudulent practices and thus the material adverse non-public information and willfully sold their Rambus common stock in violation of California Corporations Code § 25402.

670. The Insider selling Defendants misappropriated material company information in timing the exercise and sale their stock options before that information was available to the public in violation of California Corporations Code § 25402.

1 676. This PWC's "attestation" is directed to the Rambus Board of Directors and to
2 the Rambus shareholders. Without such certification Rambus could not have
3 effectuated its options backdating scheme that resulted in Rambus' profits being
4 materially overstated. Thus, PWC knew that the financial statements would be
5 communicated to Rambus' shareholders.

6 677. PWC knew that both shareholders and those evaluating purchase of the
7 company's stock rely upon their audits of the financial statements.

8 678. WSGR willfully participated in the SEC and IRS and insider trading fraud by
9 preparing and reviewing the misleading and false SEC filings to confuse the public
10 about the true status of Rambus financial and corporate legal affairs as
11 demonstrated herein.

12 679. WSGR crafted misleading, false and ambiguous wording of the SEC financial,
13 proxy, and registration reports to cover-up Rambus 162 (m) and other violations as
14 shown and alleged herein..

15 680. WSGR also certified the fraudulent Convertible Bond Prospectus that was filed
16 with the SEC under the 1933 Exchange Act in 2005 thereby aiding and abetting
17 another fraud.

18 681. California Corporations Code §25403(b) provides as follows:

19 "Any person that knowingly provides substantial assistance to
20 another person in violation of any provision of this division or any
21 rule or order thereunder shall be deemed to be in violation of that
22 provision, rule, or order to the same extent as the person to whom
23 the assistance was provided. "

24 682. Plaintiff relied on the false attestations and was misled by the false and
25 misleading wording of the SEC reports alleged herein and was damaged thereby.

COUNT IIX
FOR CALIFORNIA COMMON LAW FRAUD AGAINST ALL DEFENDANTS

683. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

684. The Defendants intentionally produced and distributed false Rambus financial statements from 1998 to 2006 and concealed the ineffectiveness of Rambus' internal controls.

685. The Defendants had knowledge of the falsity of the financial and proxy statements and the illicit options and new employee "hire date" backdating practices because they planned and executed these frauds and benefited from them.

686. The Defendants profited egregiously from their access to material non-public information in their options grant practices and in the timing of the exercise of options and sale of stock at the expense of the public from whom the material information was concealed.

687. The Defendants knew that the financial reports would be communicated to purchasers and holders of Rambus securities and that they would act them upon. PWC willfully participated in the fraud as did WSGR.

688. Plaintiff justifiably relied on the false statements alleged herein and was damaged thereby.

689. The Defendants are liable for the Plaintiff's compensatory and punitive damages as a consequence of these continuing acts of fraud.

COUNT IX
FOR CALIFORNIA COMMON LAW AIDING AND ABETTING NEGLIGENT
MISREPRESENTATION AGAINST THE INDIVIDUAL DEFENDANTS

690. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

691. The Defendants negligently produced and distributed false SEC financial and proxy statements from 1998 to 2006.

692. The Defendants should have had knowledge of the falsity of the financial statements by virtue of their knowledge of their own actions in granting and receiving backdating options and backdating employment hire dates for many years.

693. The Defendants knew that the financial reports would be communicated to purchasers and holders of Rambus securities and that they would act them upon.

694. Plaintiff justifiably relied on one or more of the false financial and/or proxy statements as alleged herein and was damaged thereby.

695. The Defendants are liable for the Plaintiff's actual damages as a consequence of their negligent misrepresentations.

COUNT X
FOR CALIFORNIA COMMON LAW AIDING AND ABETTING FRAUD
AGAINST THE PWC AND WSGR

696. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

697. PWC aided and abetted the Defendants in their options scheme by using their professional status as registered independent accountants to "certify" or "attest" to the accuracy and truthfulness of Rambus false financial statements from 1998 to 2006 and the effectiveness of its internal controls in 2004 and 2005.

1 698. PWC had knowledge of the falsity of the financial statements as a consequence
2 of its many years of auditing or reviewing Rambus financial statements and internal
3 controls.

4 699. PWC knew that the financial reports would be communicated to purchasers and
5 holders of Rambus securities and that they would act them upon.

6 700. This PWC's "attestation" is directed to the Rambus Board of Directors and to
7 the Rambus shareholders. This "attestation" was essential to the continuation of the
8 Defendants unlawful options Backdating scheme.

9 701. WSGR willfully crafted the misleading and/or false wording of the financial,
10 proxy, and registration reports to mislead and confuse the public and cover-up
11 Rambus violations of the Exchange Acts.

12 702. WSGR was aware of and advised Rambus on the options and hire date
13 backdating that was a direct violation of 162(m) of the internal revenue code and
14 Willfully helped Rambus cover-up these violations by crafting the misleading and
15 false wording in the SEC filings complained of herein.

16 703. Plaintiff justifiably relied on one or more of the false reports and/or attestations
17 alleged herein and was damaged thereby.

18 704. PWC's is liable for the Plaintiff's damages as a consequence of the false
19 financial statements.

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24 **COUNT XI**
25 **VIOLATION OF §§1709-1710 OF THE CALIFORNIA CIVIL CODE –DECEIT**
26 (Against all Defendants)

27 705. Plaintiff incorporates by reference and realleges each and every allegation set
28 forth above, as though fully set forth herein.

707. For the purpose of inducing public investors, including Plaintiff to purchase or otherwise acquire Rambus securities, and with intent to deceive such investors, the Defendants employed a scheme and conspiracy to defraud as a part of which said Defendants made, participated in the making of, or aided and abetted the making of, the misrepresentations of fact and concealed the true facts and omitted to state material facts as set forth above. Said representations and statements were not true or were misleading when made and Defendants did not believe them to be true. Said acts by Defendants were fraudulent, oppressive and malicious.

709. The Defendants concealed the stock option and new employee hire date
backdating violations.

711. Plaintiff relied on one or more of the false statements alleged herein and was damaged thereby.

Violation Of §§1753 Of The California Civil Code –Constructive Fraud

712. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

1 713. Defendants within the scope of this charge mean all the Rambus officers and
2 directors who were signatories to the false SEC reports and/or control persons for
3 Rambus.

4 714. The Defendants in violation of their duty of disclosure intentionally concealed
5 the backdating of hundreds of millions of dollars worth of stock options from the
6 shareholders and the Plaintiff.

7 715. The Plaintiff relied on the false financial, proxy and public statements of the
8 Rambus in making decisions on whether and what amount of Rambus securities to
9 buy.

10 716. The Plaintiff was damaged as a consequence of his reliance on Rambus
11 misrepresentations and concealments that violated Defendants' fiduciary duties of
12 disclosure and good faith to Plaintiff.
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17 **COUNT XIII**
18 **VIOLATION OF 1933 EXCHANGE ACT §11 , §12 AND §15**
 (Against all Signatory Defendants)

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20 717. Plaintiff incorporates by reference and realleges each and every allegation set
21 forth above, as though fully set forth herein.

22 718. All SEC registration statements filed since 1998 have incorporated false and/or
23 misleading financial and proxy statements including false profit and loss statements
24 signed by the directors and officers of Rambus and attested to by WSGR and PWC.

25 719. This action is brought within the one-year statute of limitations of discovery.
26
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1 725. Defendants also knew that their concealment of this materially adverse
2 information would allow them to defeat fraud and unfair business practice charges
3 brought against them.

4 726. Concealment of this materially adverse information from the public served to
5 greatly inflate the value of the Rambus stock and options and the insider selling
6 Defendants benefited unjustly thereby at the expense of the Plaintiffs.²⁴ PWC's acts
7 of "attesting to" the fraudulent financial statements and inadequate internal controls
8 served to mislead public investors and deny them access to the information owed
9 them and required by them to formulate sound investment decision and strategies
10 and constitutes an unlawful, unfair and/or fraudulent business acts or practices by
11 the Defendants under CA §§17200, et seq. and CA §§17500, et seq.

12 727. WSGR's acts in crafting the misleading and false wording of the fraudulent
13 SEC reports to mislead public investors and deny them access to the information
14 owed them and required by them to formulate sound investment decision and
15 strategies and constitutes unlawful, unfair and/or fraudulent business acts or
16 practices by the Defendants under CA §§17200, et seq. and CA §§17500, et seq.

17 728. Without the assistance of WSGR and PWC, Rambus could not have been
18 successful in perpetrating its acts of financial, securities fraud and insider trading.

19 729. WSGR and PWC's certification of the false and misleading registration reports
20 beginning in 1998 constituted a violations of the 1933 Exchange Act and as such
21 are predicates for this charge.
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26 ²⁴ Defendants were essentially in unfair competition with their Rambus stockholders.
27

1 730. Rambus did not report or otherwise account for option and stock grants to
2 accounting and legal service providers' thereby denying Rambus' shareholders
3 access to material information that could be used to determine the credibility of
4 Rambus' SEC filings. This constitutes an unfair business practice under California
5 law.

6 731. PWC, WSGR, and the directors and officers of Rambus who accepted stock
7 options or stock from Rambus and/or exercised options and/or sold Rambus stock
8 Violated 10 b and 10 b-5 of the 1934 Exchange Act by using material non-public
9 information including the information about Rambus various concealed frauds.
10

11 732. Defendants acts giving rise to the violations of the California civil code as
12 recited in the counts they are charged with herein when combined with the Rambus
13 FTC section 5 violations constitute methods of unfair and unlawful competition the
14 securities market.
15

16 733. The Plaintiffs have been directly injured by the individual Defendants'
17 unlawful and unfair conduct and by PWC and WSGR's aiding and abetting of
18 Rambus fraud. The Defendants have been unjustly enriched at the Plaintiffs'
19 expense.

20 734. The individual Defendants, PWC and WSGR conspired with each other and
21 PWC and WSGR aided and abetted the acts as alleged herein, and encouraged,
22 ratified, and/or accepted the benefits of the acts of each other.
23

24 735. Plaintiff is entitled to the full disclosure of Defendants other hidden
25 collaborators, full disclosure of the false and misleading nature of the Defendants'
26 statements regarding Rambus and restitution from PWC, WSGR and any other
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collaborators of all the Plaintiff's losses as well as attorney's fees and prejudgment
interest.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- a. Finding that the designated Defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder and Sections 20(a), 18 (a) and 14(a) by their acts and omissions as alleged in this Complaint;
- b. Finding that the designated Defendants violated California Codes 25401, 25403(b), 1709-1710, 17200 and 17500 et seq. as well as California common law by their acts and omissions as alleged in this Complaint;
- c. Finding that the Rambus, PWC and WSGR violated the 1933 Exchange Act sections 11, 12 15, by issuing the materially false registration SEC filings;
- d. Finding that the Defendants breached their fiduciary duty of candor under both California and Delaware law by their acts and omissions as alleged in this Complaint;
- e. Finding that the “spring-loading” of options grants violates the conditions for performance based incentive compensation under IRS code 162 (m) because it is a “reward” rather than an “incentive” and defeats the purpose of incentive based stock option plans and is based on a lie;
- f. Awarding plaintiff equitable damages, together with interest thereon for the nonstatutory years;

1 g. Awarding plaintiff compensatory damages, together with interest thereon
2 for the statutory years;

3 h. Awarding of punitive damages to deter the Defendants, PWC and WSGR
4 and Rambus from further fraudulent acts in recognition of the fact that their
5 wrongful acts were intentional and willful and of a continuing nature from 1998
6 until discovered in 2006 and that their behavior undermines public confidence in
7 the securities markets.
8

9 i. Awarding plaintiff costs and expenses of this litigation, including
10 reasonable attorneys' fees and experts' fees and other costs and disbursements; and
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12 j. Granting such other and further relief as this Court may deem just and
13 proper.
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15 **JURY TRIAL DEMANDED**

16 Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands trial by jury of all issues so triable under the
17 law.
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Dated: July 24, 2007

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